

**General Contract Clauses for Cost-Plus-Fixed-Fee R&D Contracts
between
DoD Agencies (Army, Air Force, Navy, and Army Medical) and Commercial Concerns**

The following FAR and DFARs clauses are for Cost-Plus-Fixed-Fee Research and Development contracts with commercial prime contractors. Research and Development in regards to these clauses are defined as projects for studies, analyses, investigations, technical demonstrations and other projects falling within the areas of basic research, applied research and development pursuing exploratory research efforts, not related to the development of specific weapon system or hardware procurement. The full text of a clause may be accessed electronically at the following addresses:

<http://www.arnet.gov/far/>,

http://farsite.hill.af.mil/farsite_script.html.

(A) FAR 52.252-02 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

All of the clauses listed below are either required by regulation or are required when the circumstances of the contract warrant that they apply. For instance, a dollar threshold may trigger the applicability of the clause or a certain condition of the research may trigger the applicability of the clause. In order to provide some assistance, as to when a dollar threshold triggers a clause, we have associated certain symbols with dollar thresholds. The symbols and their appropriate dollar thresholds are as follows:

- * Applies when contract action exceeds \$10,000.
- ** Applies when contract action exceeds \$100,000.
- + Applies when contract action exceeds \$500,000.
- ++ Applies when contract action exceeds \$500,000 and subcontracting possibilities exist. Small Business Exempt
- X (DD 250)
- @ flow down clauses to educational institutions

The clauses that generally flow down to educational institutions when they are the subcontractors to a commercial prime contractor are indicated with the following symbol: @. The clauses in the section using the flow-down symbol indicator: @, reflect the content of a model contract award to a commercial prime contractor and identify the clauses that are to be flowed-down.

An explanation as to why the clauses are flowed down to the education institution is provided in Attachment Number 1. The content of the following Attachment Number 1 model details only the clauses that flow-down to educational institutions either as required by regulation or as required when circumstances of the contract warrant that they apply. Clauses applicable to the commercial prime contractor are not included in the Attachment Number 1 model.

**I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1)
CLAUSES: -**

**	FAR 52.202-1	Definitions (JUL 2004)
**	FAR 52.203-3	Gratuities (APR 1984)
**	FAR 52.203-5	Covenant Against Contingent Fees (APR 1984)

@ **	FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (JUL 1995) (This clause generally does not apply to Universities)
@ **	FAR 52.203-7	Anti-Kickback Procedures (JUL 1995)
**	FAR 52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JAN 1997)
**	FAR 52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997)
@ **	FAR 52.203-12	Limitation on Payments to Influence Certain Federal Transactions (JUN 2003)
**	FAR 52.204-4	Printed or Copied Double-Sided on Recycled paper (AUG 2000)
	FAR 52.211-15	Defense Priority and Allocation Requirements (SEP 1990)
@ **	FAR 52.215-2	Audit and Records – Negotiation (JUN 1999) and Alternate II (APR 1998)
	FAR 52.215-8	Order of Precedence –Uniform Contract Format (OCT 1997)
@ +	FAR 52.215-10	Price Reduction for Defective Cost or Pricing Data (OCT 1997) (The provisions of this Clause have been waived by a joint Determination and Findings for the prime contractor only. The clause is applicable to subcontracts over \$500,000).
@ +	FAR 52.215-12	Subcontractor Cost or Pricing Data (OCT 1997) (Applicable to subcontracts over \$500,000 only)
@ **	FAR 52.215-14	Integrity of Unit Prices (OCT 1997) Alternate I (OCT 1997) (Alternate I is applicable if the action is contracted under Other Than Full and Open Competition)
@ +	FAR 52.215-15	Pension Adjustments and Asset Reversions (OCT 2004)
@ +	FAR 52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions (OCT 1997)
@ +	FAR 52.215-19	Notification of Ownership Changes (OCT 1997) (Applicable when Cost or Pricing Data is required)
@	FAR 52.216-7	Allowable Cost and Payment (DEC 2002)
	FAR 52.216-8	Fixed Fee (MAR 1997)
**	FAR 52.219-4	Notice of Price Evaluation Preference for HUBzone Small Business Concerns (OCT 2004)
@ **	FAR 52.219-8	Utilization of Small Business Concerns (MAY 2004)
@ ++	FAR 52.219-9	Small Business Subcontracting Plan (JAN 2002)
++	FAR 52.219-16	Liquidated Damages -- Subcontracting Plan (JAN 1999)
	FAR 52.222-1	Notice to the Government of Labor Disputes (FEB 1997)
**	FAR 52.222-2	Payment for Overtime Premiums (JUL 1990) (Note: The word "zero" is inserted in the blank space indicated by an asterisk)
	FAR 52.222-3	Convict Labor (JUN 2003) (Reserved when FAR 52.222-20 Walsh Healy Public Contracts Act is applicable)
@ **	FAR 52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation (SEP 2000)
@	FAR 52.222-21	Prohibition of Segregated Facilities (FEB 1999)

@	FAR 52.222-26	Equal Opportunity (APR 2002)
@ *	FAR 52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001)
@ *	FAR 52.222-36	Affirmative Action for Workers with Disabilities (JUN 1998)
@ *	FAR 52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001)
@	FAR 52.225-13	Restrictions on Certain Foreign Purchases (DEC 2003)
	FAR 52.225-16	Sanctioned European Union Country Services (FEB 2000)
@ **	FAR 52.227-1	Authorization and Consent (JUL 1995) and Alternate 1 (APR 1984)
@ **	FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996)
	FAR 52.228-7	Insurance Liability to Third Persons (MAR 1996) (Further to paragraph (a)(3), unless otherwise stated in this contract, type and limits of insurance required are as stated in FAR 28.307-2)
	FAR 52.232-9	Limitation on Withholding of Payments (APR 1984)
**	FAR 52.232-17	Interest (JUN 1996)
	FAR 52.232-23	Assignment of Claims (JAN 1986) and Alternate I (APR 1984)
	FAR 52.232-25	Prompt Payment (OCT 2003) & Alternate I (FEB 2002) (The words "the 30th day" are inserted in lieu of "the 7th day" at (a)(5)(I).) [When Alternate I is applicable (a)(5)(i) does not apply]
	FAR 52.232-33	Payment by Electronic Funds Transfer - Central Contractor Registration (OCT 2003)
	FAR 52.233-1	Disputes (JULY 2002)
	FAR 52.233-3	Protest After Award (AUG 1996) and Alternate I (JUN 1985)
	FAR 52.242-1	Notice of Intent to Disallow Costs (APR 1984)
+	FAR 52.242-3	Penalties for Unallowable Costs (MAY 2001)
	FAR 52.242-4	Certification of Final Indirect Costs (JAN 1997)
**	FAR 52.242-13	Bankruptcy (JUL 1995)
	FAR 52.242-15	Stop Work Order (AUG 1989) and Alternate I (APR 1984)
	FAR 52.243-2	Changes Cost-Reimbursement (AUG 1987) and Alternate V (APR 1984)
	FAR 52.244-2	Subcontracts (AUG 1998) and Alternate 1 (AUG 1998)
**	FAR 52.244-5	Competition in Subcontracting (DEC 1996)
@	FAR 52.244-6	Subcontracts for Commercial Items and Commercial Components (JUL 2004)
@	FAR 52.245-5	Government Property (Cost Reimbursement, Time and Material or Labor-Hour Contracts) (MAY 2004) and Alternate I (JUL 1985)(As modified by DoD Class Deviation 99-00008 dated 13 July 1999)
@	FAR 52.246-9	Inspection of Research and Development (Short Form) (APR 1984)

**	FAR 52.246-23	Limitation of Liability (FEB 1997)
** @	FAR 52.247-64	Preference for Privately Owned U.S. Flag Air Commercial Vessels (APR 2003)
@	FAR 52.249-5	Termination for Convenience of the Government (Educational and Other Nonprofit Institutions) (SEP 1996)
	FAR 52.249-6	Termination (Cost-Reimbursement) (MAY 2004)
	FAR 52.249-14	Excusable Delays (APR 1984)
	FAR 52.251-1	Government Supply Sources (APR 1984)
	FAR 52.253-1	Computer Generated Forms (JAN 1991)

II. DEPARTMENT OF DEFENSE FAR SUPPLEMENT (DFARS) (48 CFR CHAPTER 2)
CLAUSES: -

@ **	DFARS 252.203-7001	Prohibition On Persons Convicted Of Fraud Or Other Defense-Contract-Related Felonies (Mar 1999)
	DFARS 252.204-7003	Control of Government Personnel Work Product (APR 1992)
	DFARS 252.204-7004	Alternate A (NOV 2003)
@ **	DFARS 252.209-7000	Acquisition from Subcontractors subject to On-Site Inspection under the Intermediate Range Nuclear Forces (INF) Treaty (NOV 1995)
+	DFARS 252.215-7000	Pricing Adjustments (DEC 1991)
@ ++	DFARS 252.219-7003	Small, Small Disadvantaged and Women-owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996)
**	DFARS 252.225-7012	Preference for Certain Domestic Commodities (JUN 2004)
	DFARS 252.225-7031	Secondary Arab Boycott of Israel (APR 2003)
+	DFARS 252.226-7001	Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Pub. L.107-248 [and similar sections in subsequent DoD appropriation acts.]) (Applies only to non-R&D contracts for supplies or services)
@	DFARS 252.227-7013	Rights in Technical Data – Noncommercial Items (NOV 1995), and Alternate 1 (JUN 1995)
@	DFARS 252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (JUN 1995)
@	DFARS 252.227-7016	Rights in Bid or Proposal Information (JUN 1995)
@	DFARS 252.227-7019	Validation of Asserted Restrictions -- Computer Software (JUN 1995)
	DFARS 252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends (JUN 1995)
	DFARS 252.227-7028	Technical Data or Computer Software Previously Delivered to the Government (JUN 1995)
	DFARS 252.227-7030	Technical Data – Withholding of Payment (MAR 2000)

	DFARS 252.227-7036	Declaration of Technical Data Conformity (JAN 1997)
@	DFARS 252.227-7037	Validation of Restrictive Markings on Technical Data (SEP 1999)
	DFARS 252.231-7000	Supplemental Cost Principles (DEC 1991)
@	DFARS 252.235-7002	Animal Welfare (DEC 1991)
	DFARS 252.235-7011	Final Scientific or Technical Report (SEP 1999)
	DFARS 252.242-7000	Post-Award Conference (DEC 1991)
**	DFARS 252.243-7002	Requests for Equitable Adjustment (MAR 1998)
@	DFARS 252.245-7001	Reports of Government Property (MAY 1994)
X	DFARS 252.246-7000	Material Inspection and Receiving Report (MAR 2003)
@ **	DFARS 252.247-7023	Transportation of Supplies by Sea (MAY 2002)
@ **	DFARS 252.247-7024	Notification of Transportation of Supplies By Sea (MAR 2000) (Applicable when the Contractor has made a negative response to the inquiry in the representation of DFARS 252.247-7022)
@	DFARS 252.251-7000	Ordering from Government Supply Sources (OCT 2002)

**Optional Contract Clauses for Cost-Plus-Fixed-Fee R&D Contracts
between
DoD Agencies (Army, Air Force, Navy, and Army Medical) and Commercial Concerns**

(B) OPTIONAL FAR AND DFARS CLAUSES

The following FAR and DFARS prime commercial contractor clauses and “@” designated flow-down clauses only apply when specifically marked with a check (x) by the government as dictated by the particulars of the contract.

@	FAR 52.204-2	Security Requirements (Aug 1996) (Applicable If Contract Will Generate Or Require Access To Classified Information And Dd Form 254, Contract Security Classification Specification, Is Issued To The Contractor)
@	FAR 52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (JAN 2005) (Applicable to contracts exceeding \$25,000 in value)
	FAR 52.215-17	Waiver of Facilities Capital Cost of Money (OCT 1997) (Applicable if the Contractor did not propose facilities capital cost of money in the offer)
	FAR 52.215-20	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (OCT 1997) (Applicable if cost or pricing data or information other than cost or pricing data are required.)
	FAR 52.215-21	Requirements For Cost Or Pricing Data Or Information Other Than Cost Or Pricing Data – Modifications (Oct 1997) (Applicable If Cost Or Pricing Data Or Information Other Than Cost Or Pricing Data Will Be Required For Modifications.)
	FAR 52.217-9	Option to Extend the Term of the Contract (MAR 2000) (In paragraph (a), insert "", and in paragraph (c), insert ""). (Applicable if contract contains line item(s) for option(s)). (Complete the spaces in parentheses).
	FAR 52.219-3	Notice of Total HUBZone Set-Aside (JAN 1999)
	FAR 52.219-5	Very Small Business Set-Aside (JUN 2003) (For actions between \$2,500 and \$50,000)
	FAR 52.219-6	Notice of Total Small Business Set-Aside (JUN 2003), and Alternate I (OCT 1995) (Applicable to total small business set-asides, including SBIR). Alternate II (MAR 2004) (As prescribed in 19.508(c))
	FAR 52.219-10	Incentive Subcontracting Program (OCT 2001) (Applicable to contract actions exceeding \$500,000 and when subcontracting possibilities exist. The clause is small business exempt) (In paragraph (b) insert the appropriate number between 0 and 10)

	FAR 52.219-25	Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting (OCT 1999) (Applicable if contract includes FAR 52.219-24)
	FAR 52.219-26	Small Disadvantaged Business Participation Program – Incentive Subcontracting (OCT 2000) (Applicable to contract actions exceeding \$500,000 and when subcontracting possibilities exist. The clause is small business exempt) (In paragraph (b) insert the appropriate number between 0 and 10)
	FAR 52.222-20	Walsh Healy Public Contracts Act (DEC 1996) (Applicable if the contract includes deliverable materials, supplies, articles or equipment in an amount that exceeds or may exceed \$10,000)
	FAR 52.223-5	Pollution Prevention and Right-to-Know Information (AUG 2003) (Applicable if contract provides for performance, in whole or in part, on a Federal facility.)
	FAR 52.223-6	Drug-Free Workplace (MAY 2001) (Applies when contract action exceeds \$100,000 or at any value when the contract is awarded to an individual)
@	FAR 52.227-10	Filing of Patent Applications – Classified Subject Matter (APR 1984) (Applicable if contract is subject to FAR clauses 52.204-2 and either FAR 52.227-11)
@	FAR 52.227-11	Patent Rights – Retention by the Contractor (Short Form) (JUN 1997) (Applicable if contractor is a small business or nonprofit organization)
@	FAR 52.230-2	Cost Accounting Standards (APR 1998) (Applicable when contract amount is over \$500,000, if contractor is subject to full CAS coverage, as set forth in 48 CFR Chapter 99, Subpart 9903.201-2(a) (FAR Appendix B)
@	FAR 52.230-3	Disclosure and Consistency of Cost Accounting Practices (APR 1998) (Applicable when contract amount is over \$500,000 but less than \$25 million, and the offeror certifies it is eligible for and elects to use modified CAS coverage as set forth in 48 CFR Chapter 99, Subpart 9903.201-2 (FAR Appendix B)
@	FAR 52.230-5	Cost Accounting Standards -- Educational Institution (Apr 1998)
@	FAR 52.230-6	Administration of Cost Accounting Standards (NOV 1999) (Applicable if contract is subject to either clause at FAR 52.230-02 or the clause at FAR 52.230-03)
	FAR 52.232-20	Limitation of Cost (APR 1984) (Applicable only when contract action is fully funded)
	FAR 52.232-22	Limitation of Funds (APR 1984) (Applicable only when contract action is incrementally funded)

	FAR 52.245-5	Government Property (Cost-Reimbursement, Time-and-Materials, or Labor-Hour Contracts) (JUN 2003) and ALT I (JUN 2003) Applicable if contractor is a nonprofit organization whose primary purpose is the conduct of scientific research)
@	FAR 52.245-18	Special Test Equipment (Feb 1993) Applicable If It Is Anticipated That The Contractor Will Acquire Or Fabricate Special Test Equipment But The Exact Identification Of The Equipment Is Not Known.
	DFARS 252.203-7002	Display of DoD Hotline Poster (DEC 1991) (Applicable only when contract action exceeds \$5 million or when any modification increases contract amount to more than \$5 million)
	DFARS 252.204-7000	Disclosure of Information (DEC 1991) (Applies when Contractor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public) (This clause rarely applies to a University subcontract effort. The prime should consult with the ONR Contracting Officer and the Program Officer before flow-down to a University.)
@	DFARS 252.204-7005	Oral Attestation of Security Responsibilities (NOV 2001) (Applicable if FAR 52.204, Security Requirements applies)
	DFARS 252.205-7000	Provision of Information to Cooperative Agreement Holders (DEC 1991) (Applicable only when contract action exceeds \$500,000 or when any modification increases total contract amount to more than \$500,000)
	DFARS 252.215-7002	Cost Estimating System Requirements (OCT 1998) (Applicable only to contract actions awarded on the basis of certified cost or pricing data)
	DFARS 252.223-7004	Drug-Free Work Force (SEP 1988) (Applicable (a) if contract involves access to classified information; or (b) when the Contracting Officer determines that the clause is necessary for reasons of national security or for the purpose of protecting the health or safety of those using or affected by the product of, or performance of the contract.
	DFARS 252.223-7006	Prohibition on Storage and Disposal of Toxic and Hazardous Materials (APR 1993) (Applicable if work requires, may require, or permits contractor performance on a DoD installation)
	DFARS 252.225-7001	Buy American Act and Balance of Payments Program (APR 2003) (Applicable if the contract includes deliverable supplies) (This clause does not apply if an exception to the Buy American Act or Balance of Payments Program is known or if using the clause at 252.225-7007, 252.225-7021, or 252.225-7036.)

	DFARS 252.225-7002	Qualifying Country Sources As Subcontractors (APR 2003) (Applicable When Clause At DFARS 252.225-7001, 252.227-7007, 252.227-7021, Or 252.227-7036 Applies)
	DFARS 252.225-7016	Restriction on Acquisition of Ball and Roller Bearings (MAY 2004) (Applicable if contract includes deliverable supplies, unless Contracting Officer knows that items being acquired do not contain ball or roller bearings)
@	DFARS 252.227-7018	Rights in Noncommercial Technical Data and Computer Software – Small Business Innovation Research Program (JUN 1995) (Applicable when technical data or computer software will be generated during performance of contracts under the SBIR Program)
@	DFARS 252.227-7034	Patents – Subcontracts (APR 1984) (Applicable when FAR 52.227-11 applies)
	DFARS 252.227-7039	Patents – Reporting of Subject Inventions (APR 1990) (Applies when FAR 52.227-11 applies)
	DFARS 252.242-7004	Material Management And Accounting System (DEC 2000) (Applicable To Contract Actions Exceeding \$100,000) (Not Applicable To Contracts Set Aside For Exclusive Participation By Small Business And Small Disadvantaged Business Concerns)

**Full Text Contract Clauses for Cost-Plus-Fixed-Fee R&D Contracts
between
DoD Agencies (Army, Air Force, Navy, and Army Medical) and Commercial Concerns**

(C) Full Text DFARS CLAUSES

The following full text DFARS clauses are applicable to contract actions of \$100,000 or more:

@ DFARS 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002)

(a) As used in this clause:

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication or assembly by the Contractor or any subcontractor.

(2) "Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and Defense agencies.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type and description, with parts, subassemblies, accessories and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) (1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract;

(2) A subcontractor transporting supplies by sea under this contract shall use U.S. -flag vessels if -

(i) This contract is a construction contract; or

(ii) The supplies being transported are-

(A) Non commercial items; or

(B) Commercial items that -

(1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontract for f.o.b. destination shipment);

(2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate U.S.-flag vessels, if the Contractor or a subcontractor believes that B

(1) U.S. - flag vessels are not available for timely shipment;

(2) The freight charges are inordinately excessive or unreasonable;

or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum --

(1) Type, weight, and cube of cargo.

(2) Required shipping date.

(3) Special handling and discharge requirements.

(4) Loading and discharge points.

(5) Name of shipper and consignee.

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) of at least two (2) U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile messages or letters will be sufficient for this purpose.

(e) The Contractor shall, within thirty (30) days after each shipment covered by this clause, provide the Contracting Officer and the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean-bill-of-lading, which shall contain the following information:

(1) Prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of the steamship company.

(f) The Contractor agrees to provide with its final invoice under this contract a representation that to the best of its knowledge and belief:

- (1) No ocean transportation was used in the performance of this contract;
- (2) Ocean transportation was used and only United States-flag vessels were used for all ocean shipments under the contract.
- (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or
- (4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

	ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
Total			

(g) If the final invoice does not include the required representation, the Government will reject it and return it to the Contractor as an improper invoice for the purposes of Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) The Contractor shall include this clause, including this paragraph (h), in all subcontracts under this contract that -

- (1) Exceed the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulations; and
- (2) Are for a type of supplies described in paragraph (b)(2) of this clause.

@ DFARS 252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (MAR 2000) (Applicable when the Contractor has made a negative response to the inquiry in the representation at DFARS 252.247-7022)

(a) The Contractor has indicated by the response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the Contractor learns that supplies, as

defined in the Transportation of Supplies by Sea clause of this contract, will be transported by sea, the Contractor --

- (1) Shall notify the Contracting Officer of that fact; and
- (2) Hereby agrees to comply with all the terms and conditions of the Transportation of Supplies by Sea clause of this contract.

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties -

(1) In all subcontracts under this contract, if this contract is a construction contract; or

(2) If this contract is not a construction contract, in all subcontracts under this contract that are for-

- (i) Noncommercial items; or
- (ii) Commercial items that -


(A) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(B) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(C) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

**General Contract Clauses for Flow-Down
for
Subcontracts between Commercial Concerns (prime) and Educational Institutions
under
DoD Agencies (Army, Air Force, Navy, and Army Medical) Cost-Plus-Fixed-Fee R&D
Contracts**

(A) FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

 The following clauses are the designated clauses that generally flow-down from a commercial prime contractor to an educational institution and are either required by regulation or are required when the circumstances of the contract warrant that they apply. For instance, a dollar threshold may trigger the clause or a certain condition of the research may trigger the clause. In order to provide some assistance, as to when a dollar threshold triggers a clause, we have associated specific symbols with dollar thresholds. The symbols and their appropriate dollar thresholds are as follows:

- * Applies when contract action exceeds \$10,000.
- ** Applies when contract action exceeds \$100,000.
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- x (DD 250).

The content of this model contract detail only the clauses that flow-down to educational institutions either as required by regulation or as required when circumstances of the contract warrant that they apply.

**I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1)
CLAUSES: -**

**	FAR 52.203-6	Restrictions On Subcontractor Sales To The Government (JUL 1995) (Include In All Subcontracts That Exceed \$100,000.) (Generally Not Applicable To Universities.)
**	FAR 52.203-7	Anti-Kickback Procedures (JUL 1995) (Include in all subcontracts that exceed \$100,000, except for subparagraph (c)(1) of the clause.)
**	FAR 52.203-12	Limitation on Payments to Influence Certain Federal Transactions (JUN 2003) (Applicable if any person requests or receives a subcontract exceeding \$100,000. The subcontractor shall submit a certification and disclosure form, if required.)
**	FAR 52.215-2	Audit and Records - Negotiation (JUN 1999) and Alternate II (APR 1998) (Include in all subcontracts that exceed \$100,000.)

+	FAR 52.215-10	Price Reduction For Defective Cost Or Pricing Data (Oct 1997) (The Provisions Of This Clause Have Been Waived By A Joint Determination And Findings For The Prime Contractor Only. The Clause Is Applicable To Subcontracts Over \$500,000.)
+	FAR 52.215-12	Subcontractor Cost or Pricing Data (OCT 1997) (Applicable to subcontracts over \$500,000 only.)
**	FAR 52.215-14	Integrity of Unit Prices (OCT 1997) and Alternate I (OCT 1997) (Applicable if action contracted under Other Than Full and Open Competition) (Include in all subcontracts that exceed \$100,000.)
+	FAR 52.215-15	Pension Adjustments and Asset Reversions (OCT 2004) (Include in all subcontracts in which it is anticipated that cost or pricing data will be required or for which any preaward or postaward cost determinations will be subject to Part 31.)
+	FAR 52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions (OCT 1997). (Include in all subcontracts in which it is anticipated that cost or pricing data will be required or for which any preaward or postaward cost determinations will be subject to Part 31.)
+	FAR 52.215-19	Notification of Ownership Changes (OCT 1997) (Applicable when Cost or Pricing Data is required) (Include in all subcontracts in which it is anticipated that cost or pricing data will be required or for which any preaward or postaward cost determinations will be subject to Part 31.)
**	FAR 52.216-7	Allowable Cost and payment (DEC 2002) (Include in all subcontracts but in paragraph (a), delete the words “Subpart 31.2” and substitute “Subpart 31.3”)
**	FAR 52.219-8	Utilization of Small Business Concerns (MAY 2004) (Include if the subcontract offers subcontracting possibilities.)
++	FAR 52.219-9	Small Business Subcontracting Plan (JAN 2002) (Include in all subcontracts in excess of \$500,000.)
**	FAR 52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation (SEPT 2000) (Include in all subcontracts that exceed \$100,000 and a clause requiring the subcontractors to include the clause in any lower tier subcontracts.)

	FAR 52.222-21	Prohibition Of Segregated Facilities (Feb 1999) (Include This Clause In Every Subcontract And Purchase Order That Is Subject To The Equal Opportunity Clause.)
	FAR 52.222-26	Equal Opportunity (APR 2002) (Include the terms and conditions of subparagraphs (b)(1) through (11) of this clause in every subcontract that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor.)
*	FAR 52.222-35	Equal Opportunity for Special Disabled Veterans and Veterans of the Vietnam Era and other Eligible Veterans (DEC 2001). (Include in all subcontracts that exceed \$25,000 or more, unless exempted by rules, regulations, or orders of the Secretary.)
*	FAR 52.222-36	Affirmative Action for Workers with Disabilities (JUN 1998) (Include in all subcontracts that exceed \$10,000 or more, unless exempted by rules, regulations, or orders of the Secretary.)
*	FAR 52.222-37	Employment Reports on Disabled Veterans and Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (Include in all subcontracts that exceed \$25,000 or more, unless exempted by rules, regulations, or orders of the Secretary.)
	FAR 52.225-13	Restrictions on Certain Foreign Purchases (DEC 2003) (Include in all subcontracts)
**	FAR 52.227-1	Authorization and Consent (JUL 1995) and Alternate 1 (APR 1984) (Include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold); however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.)
**	FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996) (Include, and require inclusion of, this clause, in all subcontracts at any tier

		for supplies or services (including construction, architect-engineer services, and those for materials, supplies, models, samples, or design or testing services) expected to exceed the simplified acquisition threshold.)
	FAR 52.244-6	Subcontracts for Commercial Items and Commercial Components (DEC 2004) (Include the terms of this clause including paragraph (d), in all subcontracts.)
	FAR 52.245-5	Government Property (Cost Reimbursement, Time and Material or Labor-Hour Contracts)(MAY 2004) & Alternate I (JUL 1985) (As modified by DoD Class Deviation 99-00008 dated 13 July 1999) (Not specifically required to be included in subcontracts; however, if the Contractor transfers Government property to the subcontractor, the subcontract shall contain provisions that either relieve the subcontractor from liability for loss or destruction of, or damage to the property, or requires the return of all Government property in good condition. If the contractor chooses to use the following clause in a subcontract arrangement, it must be used with its Alternate I.)
	FAR 52.246-9	Inspection of Research and Development (Short Form) (APR 1984) (Not specifically required to be included in subcontracts, but if the Government performs inspection or evaluation on the premises of a subcontractor, the subcontractor shall be required to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.)
	FAR 52.247-64	Preference for Privately Owned U.S. Flag Commercial Vessels (APR 2003) (Include the substance of this clause, including paragraph (d) in all subcontracts or purchase orders under this contract.)
	FAR 52.249-5	Termination for Convenience of the Government (Educational and Other Nonprofit Institutions) (Sep 1996)

**II. DEPARTMENT OF DEFENSE FAR SUPPLEMENT (DFARS) (48 CFR
CHAPTER 2) CLAUSES: -**

**	DFARS 252.203-7001	Prohibition On Persons Convicted Of Fraud Or Other Defense-Contract-Related Felonies (Mar 1999) (Include The Substance Of This Clause, Appropriately Modified To Reflect The Identity And Relationship Of The Parties, In All First-Tier Subcontracts Exceeding The Simplified Acquisition Threshold In Part 2 Of The Federal Acquisition Regulation, Except Those For Commercial Items Or Components.)
**	DFARS 252.209-7000	Acquisition from Subcontractors subject to On-Site Inspection under the Intermediate Range Nuclear Forces (INF) Treaty (NOV 1995) (Include this clause, including this paragraph (b), in all solicitations and contracts exceeding the simplified acquisition threshold in Part 13 of the Federal Acquisition Regulation, except those for commercial items.)
++	DFARS 252.219-7003	Small, Small Disadvantaged and Women-owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (Include when FAR 52.219-9, Small Business Subcontracting Plan is included.)
	DFARS 252.227-7013	Rights in Technical Data – Noncommercial Items (NOV 1995), and Alternate 1 (JUN 1995) (The Contractor shall ensure that the rights afforded its subcontractors and suppliers under 10 U.S.C.2320, 10 U.S.C.2321, and the identification, assertion, and delivery processes of paragraph (e) of this clause are recognized and protected. Whenever any technical data for noncommercial items is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data.)

	DFARS 252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (JUN 1995) (The Contractor shall ensure that the rights afforded its subcontractors and suppliers under 10 U.S.C.2320, 10 U.S.C.2321, and the identification, assertion, and delivery processes required by paragraph (e) of this clause are recognized and protected. Whenever any noncommercial technical data or computer software is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. The Contractor shall use the Technical Data -- Commercial Items clause of this contract to obtain technical data pertaining to commercial items, components, or processes. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data or computer software.)
	DFARS 252.227-7016	Rights in Bid or Proposal Information (JUN 1995) (Include this clause in all subcontracts or similar contractual instruments and require its subcontractors or suppliers to do so without alteration, except to identify the parties.)
	DFARS 252.227-7019	Validation of Asserted Restrictions -- Computer Software (JUN 1995). (Include this clause in all contracts, purchase orders, and other similar instruments with its subcontractors or suppliers, at any tier, who will be furnishing computer software to the Government in the performance of this contract. The clause may not be altered other than to identify the appropriate parties.)
	DFARS 252.227-7037	Validation of Restrictive Markings on Technical Data (SEP 1999) (Include this clause in contractual instruments with its subcontractors or suppliers at any tier requiring the delivery of technical data, except contractual instruments for commercial items or commercial components.)
	DFARS 252.235-7002	Animal Welfare (DEC 1991) (Include this clause, including this paragraph (f), in all subcontracts involving research of live vertebrate animals.)

	DFARS 252.245-7001	Reports of Government Property (MAY 1994) (This clause is not specifically required, but the Contractor is responsible for reporting all Government property accountable to this contract, including that at subcontractor and alternate locations.)
	DFARS 252.247-7023	Transportation of Supplies by Sea (MAY 2002) (This clause is required to be included in all solicitations and resultant contracts, except for the exclusions detailed at DFARS 247.573.
	DFARS 252.247-7024	Notification of Transportation of Supplies By Sea (MAR 2000) (Applicable in all contracts for which the offeror made a negative response to the inquiry in the provision at 252.247-7022, Representation of Extent of Transportation by Sea, as detailed at DFARS 247.573)
	DFARS 252.251-7000	Ordering From Government Supply Sources (OCT 2002) (This Clause Is Not Specifically Required, But Only The Contractor May Request Authorization For Subcontractor Use Of Government Supply Sources. The Contracting Officer Will Not Grant Authorizations For Subcontractor Use Without Approval Of The Contractor.)

**Optional Contract Clauses for Flow Down
for
Subcontracts between Commercial Concerns (prime) and Educational Institutions
under
DoD Agencies (Army, Air Force, Navy, and Army Medical) Cost-Plus-Fixed-Fee R&D
Contracts**

(B) OPTIONAL FAR AND DFARS CLAUSES

The following FAR and DFARS clauses only apply when specifically marked with a check (x) by the government as dictated by the particulars of the contract.

	FAR 52.204-02	Security Requirements (Aug 1996) (Applicable If Contract Will Generate Or Require Access To Classified Information And Dd Form 254, Contract Security Classification Specification Is Issued To The Contractor) (Insert Terms That Conform Substantially To The Language Of This Clause, Including This Paragraph (D) But Excluding Any Reference To The Changes Clause Of This Contract, In All Subcontracts Under This Contract That Involve Access To Classified Information. Alternate I Shall Also Apply For Educational Institutions.)
	FAR 52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (JUL 1995) (Applicable to contracts exceeding \$25,000 in value) (Each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, shall disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.)
	FAR 52.227-10	Filing of Patent Applications - Classified Subject matter (APR 1984) (Applicable if contract is subject to FAR clauses 52.204-2 and either FAR 52.227-11 or FAR 52.227-12) (Include and require the inclusion of this clause in all subcontracts at any tier that cover or are likely to cover classified subject matter.)
	FAR 52.227-11	Patent Rights – Retention by the Contractor (Short Form) (JUN 1997) (Applicable if contractor is a small business or nonprofit organization) (Include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or domestic nonprofit organization.)

	FAR 52.230-2 and 3	<p>Replace FAR 52.230-2 (Cost Accounting Standards) (APR 1998) and FAR 52.230-3 (Disclosure and Consistency of Cost Accounting Practices) (APR 1998) with FAR 52.230-5 (Cost Accounting Standards - Educational Institution) (APR 1998) (Include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all applicable CAS in effect on the subcontractor's award date or, if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractors signed Certificate of Current Cost or Pricing Data, except that B</p> <p>(1) If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in 48 CFR 9903.201-4 shall be inserted;</p> <p>(2) This requirement shall apply only to negotiated subcontracts in excess of \$500,000; and</p> <p>(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.)</p>
	FAR 52.230-5	Cost Accounting Standards -- Educational Institution (Apr 1998)
	FAR 52.230-6	Administration of Cost Accounting Standards (NOV 1999) (Applicable if contract is subject to either clause FAR 52.230-02, FAR 52.230-03 or the clause at FAR 52.230-05) (Include the substance of this clause in all negotiated subcontracts.)
	FAR 52.245-18	Special Test Equipment (FEB 1993) (Applicable if it is anticipated that the contractor will acquire or fabricate special test equipment but the exact identification of the equipment is not known) (Include in any subcontract that provides that special test equipment or components may be acquired or fabricated for the Government, insert provisions that conform substantially to the language of this clause, including this paragraph (d).)

	DFARS 252.204-7005	Oral Attestation of Security Responsibilities (NOV 2001) (Applicable if FAR 52.204-2, Security Requirements applies) (This clause does not state that it should be flowed down, but it applies when FAR 52.204-2 is included in the contract and that clause does flow down.)
	DFARS 252.227-7018	Rights in Noncommercial Technical Data and Computer Software – Small Business Innovation Research (SBIR) Program (JUN 1995) (The Contractor shall ensure that the rights afforded its subcontractors and suppliers under 10 U.S.C.2320, 10 U.S.C.2321, and the identification, assertion, and delivery processes required by paragraph (e) of this clause are recognized and protected. Whenever any noncommercial technical data or computer software is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. The Contractor shall use the Technical Data -- Commercial Items clause of this contract to obtain technical data pertaining to commercial items, components, or processes. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data or computer software.)
	DFARS 252.227-7034	Patents - Subcontracts (APR 1984) (Applicable when FAR 52.227-11 applies) (Include the clause at FAR 52.227-12, Patent Rights -- Retention by the Contractor (Long Form), suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by other than a small business firm or nonprofit organization.)

**Full Text Contract Clauses for Cost-Plus-Fixed-Fee R&D Contracts
between
DoD Agencies (Army, Air Force, Navy, and Army Medical) and Commercial Concerns**

(C) Full Text DFARS CLAUSES

The following full text DFARS clauses are applicable to contract actions of \$100,000 or more:

DFARS 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002)

(a) *Definitions.* As used in this clause—

- (1) “Components” means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.
- (2) “Department of Defense” (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.
- (3) “Foreign flag vessel” means any vessel that is not a U.S.-flag vessel.
- (4) “Ocean transportation” means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.
- (5) “Subcontractor” means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.
- (6) “Supplies” means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.
 - (i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.
 - (ii) “Supplies” includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.
- (7) “U.S.-flag vessel” means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if—

- (i) This contract is a construction contract; or
- (ii) The supplies being transported are—
 - (A) Noncommercial items; or
 - (B) Commercial items that—
 - (1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

- (2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or
- (3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that—

- (1) U.S.-flag vessels are not available for timely shipment;
- (2) The freight charges are inordinately excessive or unreasonable; or
- (3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum—

- (1) Type, weight, and cube of cargo;
- (2) Required shipping date;
- (3) Special handling and discharge requirements;
- (4) Loading and discharge points;
- (5) Name of shipper and consignee;
- (6) Prime contract number; and
- (7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

- (1) Prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of loading;
- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of steamship company.

(f) The Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief—

- (1) No ocean transportation was used in the performance of this contract;
- (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;

(3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

	ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
TOTAL			

(g) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) In the award of subcontracts for the types of supplies described in paragraph (b)(2) of this clause, the Contractor shall flow down the requirements of this clause as follows:

(1) The Contractor shall insert the substance of this clause, including this paragraph (h), in subcontracts that exceed the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation.

(2) The Contractor shall insert the substance of paragraphs (a) through (e) of this clause, and this paragraph (h), in subcontracts that are at or below the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation.

(End of clause)

ALTERNATE I (MAR 2000)

As prescribed in 247.573(b)(2), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if the supplies being transported are—

(i) Noncommercial items; or

(ii) Commercial items that—

(A) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(B) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations (Note: This contract requires shipment of commercial items in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations); or

(C) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

ALTERNATE II (MAR 2000)

As prescribed in 247.573(b)(3), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if the supplies being transported are—

- (i) Noncommercial items; or
- (ii) Commercial items that—
 - (A) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);
 - (B) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or
 - (C) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643 (Note: This contract requires transportation of commissary or exchange cargoes outside of the Defense Transportation System in accordance with 10 U.S.C. 2643).

ALTERNATE III (MAY 2002)

As prescribed in 247.573(b)(4), substitute the following paragraph (f) for paragraphs (f), (g), and (h) of the basic clause:

- (f) The Contractor shall insert the substance of this clause, including this paragraph (f), in subcontracts that are for a type of supplies described in paragraph (b)(2) of this clause.

DFARS 252.247-7024

**NOTIFICATION OF TRANSPORTATION OF SUPPLIES
BY SEA (MAR 2000) (Applicable when the Contractor has
made a negative response to the inquiry in the representation
at DFARS 252.247-7022)**

(a) The Contractor has indicated by the response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the Contractor learns that supplies, as defined in the Transportation of Supplies by Sea clause of this contract, will be transported by sea, the Contractor --

- (1) Shall notify the Contracting Officer of that fact; and
- (2) Hereby agrees to comply with all the terms and conditions of the Transportation of Supplies by Sea clause of this contract.

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties -

- (1) In all subcontracts under this contract, if this contract is a construction contract; or
- (2) If this contract is not a construction contract, in all subcontracts under this contract that are for-

- (i) Noncommercial items; or
- (ii) Commercial items that -

(A) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(B) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(C) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.